APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,328	10/16/2001	Jason Lango	67272-8046.US01	4985

77042   7590   07/09/2009

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EXAMINER
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ART UNIT	PAPER NUMBER
2443	

MAIL DATE	DELIVERY MODE
07/09/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	09/981,328	LANGO ET AL.
	Examiner	Art Unit	
	ASGHAR BILGRAMI	2443	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>06 April 2009</u>.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-3,5,6,8-12 and 16-26</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-3,5,6,8-12 and 16-26</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>16 October 2001</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>6/2/2009</u>

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on

4/6/2009 has been entered.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 1-2, 5, 6, 8-10, 12 & 16-23, 25 & 26 are rejected under 35 U.S.C. 103(a)

as being unpatentable over Srikantan et al (U.S. Pub No 2002/005612 A1) and Hejna,

Jr. (U.S. 6,370,688 B1).

4.   As per claims 1, 6, 9, 16, 20 & 22 Srikantan-Hejna disclosed a method for

reducing peak output traffic bursts in a processing system, which includes a processor

the method comprising: receiving, at the streaming media cache (Paragraph.28, Figure

1, element 102), a first packet of data representing a particular portion of a media

stream and including a specified packet delivery time, scheduled to be delivered to each

of a number of downstream clients at the specified packet delivery time (paragraph.26);

modifying the specified packet delivery time of the first packet of data (paragraph.26,

lines 1-4), for delivery of the first packet of data to a first downstream client system, by

adding the first delay value to the specified packet delivery time of the first packet data.

Although Srikantan did not explicitly disclose modifying the media data packet's delivery

time for first and second client respectively so that the media data packet from a source

reaches the first and second client at slightly different times (page.3, paragraphs.36 &

page.4, paragraphs.46 & 53). However Srikantan disclosed the media frames (packets)

of a live or pre-recorded event from a single source being simultaneously streamed

(multiple streams) in a real-time to multiple users in a specified order within a certain

period of time (i.e. time interval T1, T2 etc) {paragraphs. 25 & 26(lines 1-8) &

paragraphs 55 & 56}. Therefore in order for the packets of a single live or pre-recorded

transmission to be delivered to multiple clients as described by Srikantan, time delay

techniques are utilized (paragraph. 8 & paragraph. 55 "_different timing_ (time intervals)

for different clients").

However Srikantan did not explicitly disclose _pseudo-randomly selecting_ a second delay

value; and modifying the specified packet delivery time of the first packet of data for

delivery of the first packet of data to a second downstream client system, by adding the

second delay value to the specified packet delivery time of second first packet of data.

In the same filed of endeavor Hejna Jr. disclosed pseudo-randomly selecting a second

delay value; and modifying the specified packet delivery time of the first packet of data

for delivery of the first packet of data to a second downstream client system, by adding

the second delay value to the specified packet delivery time of second first packet of

data (col.8, lines 35-46 & col.11, lines 43-46) { The "arbitrary packet delay" disclosed by

Hejna is dictated based on more than one factors such as loading, congestion and other

factors etc therefore it is evident that the delay applied to the packet is pseudo-random}

{Additionally, examiner notes that "varying packet delay" analogy is consistent with the

applicants disclosure of "Pseudo-random time selection" for a packet because

applicant's specification is silent regarding applicability of any "rule or criteria" for

pseudo-random time selection. Examiner notes that "Pseudo-random time selection" is

an open ended broad term}

It would have been obvious to one in the ordinary skill in the art at the time the invention

was made to have incorporated the pseudo-random as disclosed by Hejna in the

processing system disclosed by Srikantan in order to make the system more robust

resulting in a system that is more efficient in transmitting data packets to the network

deices.

5.   As per claims 2, 19 , 21 & 23 Srikantan-Hejna disclosed the method of claim 1

wherein pseudo-randomly selecting the first delay value comprises pseudo-randomly

selecting the first delay value from within a specified time range (Hejna, col.8, lines 35-

46 & col.11, lines 43-46).

6.   As per claims 5, 8 & 12 Srikantan-Hejna disclosed the method of claim 6 further

comprising: receiving a data file from the upstream server, the data file including a

payload portion of the first streaming media data packet and a payload portion of the

second streaming media data packet (page.2, paragraph.30); and storing the data file in

a storage within the streaming media cache (Srikantan, page.6, paragraph.75).

7.   As per claims 10 Srikantan-Hejna disclosed the computer system of claim 9

wherein the second thread is configured to modify the first delayed first data packet in

response to the first client delay by adding the first client delay to the first delivery time

(Srikantan, Page.1, Paragraph.8, page.2, paragraph.26, page.3, paragraphs.36 &

page.4, paragraphs.46 & 53).

8.   As per claims 17 & 18 Srikantan-Hejna disclosed the method of claim 16 wherein

the first packet of data is framed and its data comprises streaming media (Srikantan,

paragraph.26).

9.   As per claim 25 & 26 Srikantan-Hejna disclosed the method of claim 22, wherein

said data packet is part of a live data stream being broadcasted to the plurality of client

system, wherein a pseudo-randomly selected delay time for first client system of the

plurality of client systems is different from the pseudo-randomly selected delay time for

a second client system of the plurality of systems (Hejna, col.8, lines 35-46 & col.11,

lines 43-46).

Claim Rejections - 35 USC § 103

10.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

11.   Claims 3, 11 & 24 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Srikantan et al (U.S. Pub No 2002/005612 A1), Hejna, Jr. (U.S. 6,370,688 B1) and

Chen et al (U.S. 6,680,976 B1).

12.   As per claims 3, 11 & 24 Srikantan-Hejna disclosed the method of claim 10.

However neither Srikantan nor Hejna disclosed wherein the first client delay is pseudo-

randomly selected from the range: 0 to approximately 500 milliseconds. In the same

filed of endeavor Chen disclosed wherein the first client delay is pseudo-randomly

selected (col.14,lines 53-64) from the range: 0 to approximately 500 milliseconds (col.9,

lines 47-55).

It would have been obvious to one in the ordinary skill in the art at the time the invention

was made to have incorporated the pseudo-random delay range to selected from

approximately 0 to 500 millisecond as disclosed by Chen in the method disclosed by

Srikantan and Hejna in order to make the processing system more optimized resulting

in a processing system that is more robust.

Response to Arguments

13.   Applicant's arguments with respect to claims 1, 9, 16 & 22 have been considered

but are moot in view of the new ground(s) of rejection.

14.   Applicant argued that In Srikantan discloses streaming different segments of the

media data to different client at any given time and it is dues to the fact that the requests

for the media data from the different clients occurred at different times.

As to applicant's arguments it is true that Srikantan discloses streaming segments of the

same media (I.E live or pre-recorded event) from one track (see, paragraph.49) to

multiple clients at different timings to <u>avoid delivering</u> the media <u>to all</u> the clients <u>at the</u>

<u>same time</u> to overcome the congestion/surge or traffic peak bursts scenario. In

paragraph.55 Srikantan states:

> [0055] **FIG. 4** demonstrates a method of serving streams
> of media from one track to multiple clients while maintain-
> ing only one copy of the media's metadata, according to one
> embodiment of the invention. In this method, the same
> media may be streamed to each client, but with different
> timing. That is, different client streams may, at any given
> time, be streaming media from different time indices within
> the media track.

> [0049]   In this embodiment, Track **302** represents a class of
> objects configured to assemble metadata for a media track
> and allow multiple file track handles to use the metadata on
> behalf of different client streams. Multiple types of Track
> objects may be generated from Track **302**, such as LiveTrack
> **320** for assembling metadata for streaming live or real-time
> event media, and FileTrack **322** for assembling metadata for

Additionally, applicant's allegation that that in Srikantan the media requests occurred

from different clients at different times is merely his own assumption.

15.   Applicant arguedthat Srikantan does not require or even suggest, that time delay

techniques must be used.

As to applicants argument Srikantan clearly states:

> [0053]   In this embodiment of the invention, each Track-
> Handle object derived from TrackHandle **304** includes suit-
> able methods for moving to a certain time index in a media
> program or track, reading media data into a buffer (for
> streaming to a client), etc. Thus, TrackHandle objects main-
> tain state information regarding a client's current play
> position in a media track, and may include one or more
> buffers for sending media packets to clients and one or more
> pointers or references to their corresponding Track objects
> for accessing metadata.

> [0054]   Once a FileTrack object is established for a given
> media track, subsequent client requests for that track use the
> established FileTrack rather than assembling the track's
> metadata again. Thus, FileTrack objects may be configured
> to instantiate new FileTrackHandle objects for new client
> streams.

> [0055]   **FIG. 4** demonstrates a method of serving streams
> of media from one track to multiple clients while maintain-
> ing only one copy of the media's metadata, according to one
> embodiment of the invention. In this method, the same
> media may be streamed to each client, but with different
> timing. That is, different client streams may, at any given
> time, be streaming media from different time indices within
> the media track.

16.   All the dependent claims are also rejected for the same reasons described

above.

17.   Finally examiner would again point out to the "<u>fact</u>" that a <u>live media (single</u>

<u>source) event</u> (e.g. Music concert) being broadcasted <u>to multiple clients in real time</u>

conforming to a specified Quality of Service <u>has to have a time delay value</u> to meet the

required criteria and it is clearly shown in Srikantan's disclosure.

<div align="center">

Conclusion

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Any inquiry concerning this communication or earlier communications from the

examiner should be directed to ASGHAR BILGRAMI whose telephone number is

(571)272-3907. The examiner can normally be reached on 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tonia L.M. Dollinger can be reached on 571-272-4170. The fax phone

number for the organization where this application or proceeding is assigned is 571-

273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. B./
Examiner, Art Unit 2443

/PHUOC NGUYEN/
Primary Examiner, Art Unit 2443